



# COUNCIL REPORT

**DATE:** December 10, 2024  
**CATEGORY:** Consent  
**DEPT.:** Public Works  
**TITLE:** **Cuesta Park Fitness Court,  
Project 21-57—Construction Acceptance**

## **RECOMMENDATION**

Accept Cuesta Park Fitness Court, Project 21-57, and authorize the final contract payment.

## **BACKGROUND AND ANALYSIS**

“Acceptance” of a construction contract is a legal event recognized by state law when the City verifies that the contractor has satisfactorily completed a public project. Once accepted, the work on the public project is complete and other actions occur, such as final payment to the contractor and the release of bonds obtained by the contractor that ensure completion of the project. Following acceptance, the City becomes responsible for maintenance of the public project.

On [June 13, 2023](#), Council took the following actions on the Cuesta Park Fitness Court project:

1. Transferred and appropriated \$249,500 in additional funding;
2. Made environmental findings;
3. Approved plans and specifications;
4. Authorized staff to advertise for bids; and
5. Authorized the City Manager or designee to award a construction contract to the lowest responsible bidder if the bid was within the project budget.

The contract was awarded to Silicon Valley Paving, Inc., of San Jose at the low-bid price of \$333,411. This project included the installation of a new fitness court and pedestrian pathway repaving at Cuesta Park.

The final construction cost of \$292,743 is within the construction contract amount of \$333,411 and included a final quantity adjustment change order resulting in contract savings of \$40,668. All work has been completed in accordance with the approved plans and specifications.

### **FISCAL IMPACT**

Cuesta Park Fitness Court, Project 21-57, is funded with \$428,810 from the Park Land Dedication Fund, \$150,000 from El Camino Hospital, and \$22,190 from the Capital Improvement Program (CIP) Reserve Fund, for a total project budget of \$601,000.

The total project expenditure is estimated to be approximately \$590,000 and is within the allotted budget, including design, project administration, construction management, inspection, and other costs. Any remaining funds will be returned to the CIP Reserve Fund and Park Land Dedication Fund in proportion to the project's use of these funding sources once the project is closed.

### **LEVINE ACT**

California Government Code Section 84308 (also known as the Levine Act) prohibits city officials from participating in any proceeding involving a "license, permit, or other entitlement for use" if the official has received a campaign contribution exceeding \$250 from a party, participant, or agent of a party or participant in the proceeding within the last 12 months. A city official is similarly prohibited from accepting, soliciting, or directing a campaign contribution exceeding \$250 from a party, participant, or agent of a party or participant to any proceeding involving a license, permit, or other entitlement for use for 12 months after a final decision is rendered in said proceeding.

Please refer to the "X" in the checklist below for information about whether the recommended action for this agenda item is subject to or exempt from the Levine Act.

#### **SUBJECT TO THE LEVINE ACT**

- Land development entitlements
- Other permit, license, or entitlement for use
- Contract or franchise

#### **EXEMPT FROM THE LEVINE ACT**

- Competitively bid contract
- Labor or personal employment contract
- General policy and legislative actions

For more information about the Levine Act, please see the Fair Political Practices Commission website: [www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html](http://www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html).

**ALTERNATIVES**

1. Determine that the improvements have not been completed in conformance with City standards and decline to accept the improvements until they are completed to the satisfaction of the City Council.
2. Provide other direction.

**PUBLIC NOTICING**—Agenda posting.

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